

CMS ENDS BLANKET WAIVER OF NURSING HOME STAFFING DATA SUBMISSION REQUIREMENT, REQUIRES DATA SUBMISSION BY AUGUST 14, 2020

July 6, 2020

On June 25, 2020, the Centers for Medicare & Medicaid Services (CMS) announced that it is ending its waiver of the requirement for nursing homes to submit staffing data through CMS's Payroll-Based Journal (PBJ) system, effective immediately. The original waiver, issued with a retroactive date of March 1, 2020, waived the PBJ reporting requirements set forth under 42 C.F.R. 483.70(q). Absent this waiver, providers would have been required to submit staffing data through CMS's PBJ system for CMS's second fiscal quarter reporting period, from January 1 through March 31, with a due date of May 15. With respect to withdrawal of this waiver, CMS has indicated that nursing homes must submit data for CMS's third fiscal quarter, from April 1 through June 30, by August 14, 2020.

WHAT THIS MEANS FOR PROVIDERS

Nursing homes must submit PBJ data for the period of April 1, 2020, through June 30, 2020, by August 14. CMS has indicated that, while not required, providers are encouraged to submit PBJ data for CMS's second fiscal quarter as well, from January 1 through March 31. However, [some commentators](#) have speculated that submission of this additional data may not provide a significant benefit to certain providers, as the data will be publicly available and will not have an impact on facility Five-Star ratings through CMS's Nursing Home Compare website. These commentators have suggested that there is some likelihood that this data could be misinterpreted or inaccurately compared between different facilities given the disparate impact that the COVID-19 pandemic has had on different regions and localities throughout the United States. Providers are advised to consider the advantages or disadvantages of submitting this additional data in deciding whether or not they should do so. Beyond withdrawal of the waiver related PBJ data as discussed above, commentators discussing the future of CMS's COVID-19 waivers have also [speculated](#) on the possibility of a forthcoming withdrawal of certain COVID-19 blanket waivers. Among waivers that may receive scrutiny, those related to staffing (e.g., CNA certification requirements), MDS reporting, and facility QAPI programs in particular, since they are not directly tied to infection control protocol, may receive further attention from regulators. Providers should continue to monitor for such changes in the coming weeks and months.

If you have any questions or need further guidance regarding the upcoming rules regarding COVID-19 reporting requirements, please contact a member of Hancock Daniel's [Long-Term Care & Post-Acute Care](#) team.

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